

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

TIA PHILLIPS; CHERRY TODD; STEPHANIE
HENAO,

Plaintiffs,

-against-

WHITE PLAINS HOSPITAL,

Defendant.

23-CV-11326 (KMK)

ORDER OF SERVICE

KENNETH M. KARAS, United States District Judge:

Plaintiffs Tia Phillips, Cherry Todd, and Stephanie Henao, who are proceeding pro se, bring this Action under the Americans with Disabilities Act of 1990, alleging that their former employer discriminated against them on the basis of their disabilities. By order dated January 10, 2024, the Court granted Plaintiffs' request to proceed in forma pauperis ("IFP"), that is, without prepayment of fees. For the reasons set forth below, the Court directs service on Defendant, and directs Plaintiff Cherry Todd to submit, within 30 days, a signed copy of her IFP application.

DISCUSSION

A. Service on Defendant

Because two Plaintiffs have been granted permission to proceed IFP, they are entitled to rely on the Court and the U.S. Marshals Service to effect service.¹ *Walker v. Schult*, 717 F.3d. 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) ("The officers of the court shall issue and

¹ Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that a summons be served within 90 days of the date the Complaint is filed, Plaintiffs are proceeding IFP and could not have served the summons and the Amended Complaint until the Court reviewed the Amended Complaint and ordered that the summons be issued. The Court therefore extends the time to serve until 90 days after the date the summons is issued.

serve all process . . . in [IFP] cases.”); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP).

To allow Plaintiffs to effect service on Defendant White Plains Hospital through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form (“USM-285 form”) for Defendant. The Clerk of Court is further instructed to issue a summons and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon Defendant.

If the Amended Complaint is not served within 90 days after the date the summons is issued, Plaintiffs should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff’s responsibility to request an extension of time for service).

Plaintiffs must notify the Court in writing if their addresses change, and the Court may dismiss the Action as to any Plaintiff who fails to do so.

B. Plaintiff Todd’s IFP application

Plaintiff Cherry Todd submitted her IFP application without a signature. Rule 11(a) of the Federal Rules of Civil Procedure provides that “[e]very pleading, written motion, and other paper must be signed by at least one attorney of record in the attorney’s name – or by a party personally if the party is unrepresented.” *See also* Local Civil Rule 11.1(a). The Supreme Court has interpreted Rule 11(a) to require “as it did in John Hancock’s day, a name handwritten (or a mark handplaced).” *Becker v. Montgomery*, 532 U.S. 757, 764 (2001).

Plaintiff Todd is directed to resubmit the signature page of her IFP application with an original signature to the Court within 30 days of the date of this order. A copy of the signature page is attached to this Order. If Plaintiff Todd fails to comply within the time allowed, her claims will be dismissed without prejudice.

CONCLUSION

The Clerk of Court is directed to issue a summons for White Plains Hospital, complete the USM-285 forms with the address for this defendant, and deliver all documents necessary to effect service to the U.S. Marshals Service.

Plaintiff Todd is directed to resubmit the signature page of her IFP application with an original signature to the Court within 30 days of the date of this order. A copy of the signature page is attached to this order. If Plaintiff Todd fails to comply with this Order within the time allowed, her claims will be dismissed without prejudice.

Plaintiffs may receive court documents by email by completing the attached form, [Consent to Electronic Service](#).²

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal. *Cf. Coppededge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

The Clerk of Court is further directed to mail an information package to each of the Plaintiffs.

SO ORDERED.

Dated: February 2, 2024
White Plains, New York



KENNETH M. KARAS
United States District Judge

² If Plaintiffs consent to receive documents by email, Plaintiffs will no longer receive court documents by regular mail.

DEFENDANT AND SERVICE ADDRESS

White Plains Hospital
41 E. Post Road
White Plains, NY 10601

4. Amount of money that I have in cash or in a checking or savings account: \$ 0.00.

5. Any automobile, real estate, stock, bond, security, trust, jewelry, art work, or other financial instrument or thing of value that I own, including any item of value held in someone else's name (*describe the property and its approximate value*):

2009 Acura RDX

6. Any housing, transportation, utilities, or loan payments, or other regular monthly expenses (*describe and provide the amount of the monthly expense*):

Car insurance \$142
Eversource Electric \$265
Gas \$200
T-Mobile phone bill \$53.86

7. Names (or, if under 18, initials only) of all persons who are dependent on me for support, my relationship with each person, and how much I contribute to their support:

NC is my son who I fully support

8. Any debts or financial obligations (*describe the amounts owed and to whom they are payable*):

Payments to Movement Mortgage of \$2307 per month

Declaration: I declare under penalty of perjury that the above information is true and understand that a false statement may result in a dismissal of my claims.

Date: 01/22/2024

Applicant's signature

Printed name